



**STATE OF WASHINGTON  
DEPARTMENT OF PERSONNEL**

**DIRECTOR'S REVIEW PROGRAM**  
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August 17, 2011

TO: Teresa Parsons, SPHR  
Director's Review Program Supervisor

FROM: Kris Brophy, SPHR  
Director's Review Program Investigator

SUBJECT: Adriana Tossini v. Department of Social and Health Services (DSHS)  
Allocation Review Request ALLO-10-031

**Director's Determination**

This position review was based on the work performed for the six-month period prior to February 10, 2010, the date DSHS Human Resources Division (DSHS-HRD) received the request for a position review of Ms. Tossini's position. As the Director's Review Investigator, I carefully considered all of the documentation in the file, the exhibits, and the verbal comments provided by both parties during the review telephone conference. Based on my review and analysis of Ms. Tossini's assigned duties and responsibilities, I conclude her position is properly allocated to the Vocational Rehabilitation Counselor 2 classification.

**Background**

On February 10, 2010, DSHS-HRD received Ms. Tossini's Position Review Request (PRR) form asking that her position be reallocated to the Vocational Rehabilitation Counselor 3 classification. Ms. Tossini signed the form on January 29, 2010 (Exhibit B-1). Her supervisor completed and signed the supervisor's portion of the form on February 8, 2010. A revised Position Description form was completed by her supervisor and signed by Ms. Tossini on March 15, 2010 (Exhibit B-4). These documents were used by Mr. Swanson in his review.

On June 18, 2010, DSHS notified Ms. Tossini that her position was properly allocated as a Vocational Rehabilitation Counselor 2 (Exhibit B-5).

On July 21, 2010, the Department of Personnel received Ms. Tossini's request for a Director's review of the DSHS allocation determination (Exhibit A-14).

On December 7, 2010, I conducted a Director's review telephone conference with the parties. Present during the call were Adriana Tossini; Heather Kafton, Council Representative, WFSE; and Robert Swanson, Classification & Compensation Specialist. During the course of the

conference Mr. Swanson requested the appeal be pended to allow him time to analyze and review additional caseload information presented by Ms. Tossini during the conference.

I pended the review conference to allow Mr. Swanson an opportunity to conduct his additional review. Mr. Swanson subsequently completed his review and by email dated March 23, 2011, notified Ms. Tossini that he was going to reallocate her position to the Vocational Rehabilitation Counselor 3 class (Exhibit B-10). However, prior to taking action, by memorandum dated April 28, 2011, the Division of Vocational Rehabilitation submitted a formal request to DSHS-HRD to reconsider that action (Exhibit B-11). Based on that request, on May 23, 2010, DSHS formally requested DOP continue the Director's position review process (Exhibit B-12).

Therefore, on June 30, 2011, I conducted a second Director's review telephone conference. Present during the conference were Adriana Tossini, Herman Gilman, WFSE Counsel Representative; Andres Aguirre, Interim Director, DVR; Don Kay, Assistant Director, DVR; Ron Falberg, Area 2 Manager, DVR; Ellen Andrews, Classification & Compensation Administrator, DSHS-HRD; and Robert Swanson, Classification & Compensation Specialist, DSHS-HRD.

Ms. Tossini submitted additional information following the review telephone conference. The information was received on July 12, 2011. This information has been added to the record and incorporated as exhibits to the file.

On August 12, 2011, I conducted a telephone call with the parties to discuss the content of exhibits containing privileged information. In exchange for withdrawing the privileged information, the parties stipulated that Adriana Tossini serves a specialized caseload made up of high school transition cases as a major component of her job functions. The exhibit list has been modified to reflect these changes (Exhibit A-22, B-12).

### **Rationale for Director's Determination**

The purpose of a position review is to determine which classification best describes the overall duties and responsibilities of a position. A position review is neither a measurement of the volume of work performed, nor an evaluation of the expertise with which that work is performed. A position review is a comparison of the duties and responsibilities of a particular position to the available classification specifications. This review results in a determination of the class that best describes the overall duties and responsibilities of the position. Liddle-Stamper v. Washington State University, PAB Case No. 3722-A2 (1994).

### **Duties and Responsibilities**

Ms. Tossini's position serves in the Mercer Unit which is one of four units serving the Seattle metropolitan area. Her position provides professional caseload management and direct delivery of vocational service functions including client evaluation, counseling, and guidance.

The supervisor of record during the time frame under review was Theresa VerWey, Vocational Rehabilitation Supervisor. Ms. Tossini's second-level supervisor is Mr. Ron Falberg, Area 2 Manager. Ms. Tossini completed a Position Review Request Form (Exhibit B-1) to document her duties and responsibilities.

In summary, Ms. Tossini describes her assigned duties and responsibilities on the PRR as follows:

60% DVR liaison to 13 high schools which include alternative and interagency schools. Enroll students in DVR services, complete eligibility, assessment, and IPE [Individualized Plan for Employment]. Attend IPE meetings at 13 schools, present at school transition events, family nights, meet with family and students to educate on DVR services and policy, plan for transition, research, coordinate, enroll and support activities that will increase employment education and employment outcomes prior to graduation to Seattle Youth Employment Program; Digi Girlz – Microsoft; King County Youth Employment Program; Dare to Dream – Marriott Hotels.

Attend transition meetings with school district personnel, agency representatives i.e. DD, WDC representative, and other community based organization, and state agencies. Provide transition presentations at local and state meetings.

Manage a caseload of 90 – 130 customers with all types of disabilities to provide VR services for which they may be eligible. Coordinate and synthesize necessary medical, psychological, social, educational, vocational and financial information to use for eligibility determination and VR services.

Provides VR counseling to assist customers to develop their Individualized Plan for Employment (IPE) and make progress toward completion of the employment goal. Approves IPE's and any amendments to the IPE. Determines customer's need and provides or arranges for services.

I provide vocational rehabilitation counseling and related services primarily to a caseload of individuals with all types of disabilities who are transitioning from the high school to entry into the workforce. As the primary transition liaison, I also provide training and mentoring to other VRC's within the unit who serve customers transitioning from high school into the workforce. With the customer, I complete a comprehensive vocational assessment, develop an IPE to achieve a specific employment goal, utilize comparable benefits, authorize expenditures of DVR funds to purchase necessary services, assist and evaluate the customer's progress toward employment, and determine when a case is to be closed. I send information on opportunities with major corporations to all transition VRC's and assist VRC's to complete and submit applications, and ensure ADA accommodations are in place at the employer site for the transition youth participating.

40% College – Venture Program Liaison 2006 – 2009 current. Attend family nights, provide technical assistance to DVR counselors, developed a packet of information for students and family requesting DVR funding for postsecondary education. Board member, participant on the funding committee and Work Based Learning Committee. As the primary liaison for the state, I communicate events, changes, and policy to [Occupational Life Skills] OLS-Venture Director and staff. I meet regularly with students and/or families attending Venture. Provide technical assistance to all VRCs, interpret DVR policy regarding OLS - Venture and special events and programmatic information.

In the attachment to the Supervisor Review section of the PRR (Exhibit B-2), Ms. VerWey disagrees that the information in the PRR is fully accurate and complete. She provided correction to the assigned titles of staff working in the Mercer Unit and corrected the budget amount spent in 2009 from \$289,000 to \$133,000.

During the course of the first review telephone conference on December 7, 2010, Ms. Tossini discussed additional caseload information with Mr. Swanson (which was later verified and acknowledged by DSHS that Ms. Tossini serves a majority of high school transition cases). This was stipulated to by the parties during the second review telephone conference on June 30, 2011, and further documented in Exhibits A-22 and B-12.

During the second review telephone conference Ms. Tossini stated that in addition to her regular caseload, she serves in a lead counselor role for transition high school cases and provided an example of giving technical guidance to other vocational rehabilitation counselors in DVR's north office regarding transition practices. She also stated she provided guidance to two alternative schools and one at the Northgate mall. She set up a meeting to talk with the coordinator for that program and discussed how to share information and resources. She also stated she provided mentoring to another employee regarding transition issues, policies and procedures.

She also stated that she coordinates and provides information for several conferences and special projects such as "Digi-Girlz" a weeklong camp sponsored by Microsoft. She sends information out to DVR VRC counselors to let them know about the program and if they need to get accommodations for their students. She further stated she coordinates all the transition program activities from Microsoft. She also confirmed she is the primary liaison for the state for the OLS-Venture program. She communicates information about events, changes, and policy to the OLS-Venture Director and staff.

During the second review telephone conference, Mr. Falberg stated that Ms. Tossini does not serve in a designated lead counselor role or function. He stated a transition lead counselor would assign work across all transition functions. This person would also make sure communication is happening between VRC's within the Mercer Unit and across the Region 4 units. Mr. Falberg stated there was no one serving in that role during the review time period. He stated the designated lead counselor position for transition for Region 4 was eliminated prior to the time period under review. He stated that responsibility was dispersed to each of the four unit VRC supervisors and they each co-shared responsibility for that function during the review time period.

#### Summary of Ms. Tossini's Perspective

Ms. Tossini asserts she performs the functions of a Lead Rehabilitation Counselor by serving as a lead counselor for a specialized transition student caseload with associated community liaison responsibilities for the Seattle area, including outreach functions to the local community colleges and private companies or organizations. She asserts she is the primary transition liaison for the Seattle unit. She asserts she has conducted training sessions with supervisors and managers, and also provides mentoring and training to other VRC's within the Mercer Unit who serve customers transitioning from high school into the workforce.

#### Summary of DSHS's Reasoning

While DSHS acknowledges Ms. Tossini serves a majority of specialized high school transition cases, DSHS asserts her position does not have designated lead responsibility over other staff and does not perform lead counselor duties as required by the definition for the VRC 3 class. DSHS asserts there are a number of VRC 2's and VRC 3's within DVR that serve specialized caseloads (e.g. High School Transition, Deaf, Developmental Disabilities, Mental Health); however, DSHS indicates only those who perform lead counselor duties in addition to regular

caseload responsibilities are allocated to the VRC 3 level. DSHS asserts Ms. Tossini does not have responsibility for providing other DVR staff with expert consultation, advice, guidance, counseling, and direction regarding service delivery to that population.

### Class Specifications

When comparing the assignment of work and level of responsibility to the available class specifications, the class series concept (if one exists) followed by definition and distinguishing characteristics are primary considerations.

### Comparison of Duties to Vocational Rehabilitation Counselor 3

The Definition for this class states:

Serves as a lead Rehabilitation Counselor and meets one of the following criteria:

1. Serves as the lead counselor and assists supervisor with office management, personnel and office coverage; and is designated to act in the absence of the supervisor;
2. is the designated lead counselor in an office, which may include out-stationed offices, implementing time limited, federally funded projects;
3. is the lead counselor without an on-site supervisor in an office located away from the main office;
4. is the lead counselor for a specialized caseload or community liaison responsibilities; or ...

The Distinguishing Characteristics for this class state:

This is the classification providing direct case management services with agency clients as well as serving as a designated lead vocational rehabilitation counselor within DSHS or the Department of Services for the Blind.

The Department of Personnel's, "*Glossary of Classification Terms*" defines "lead" as: "An employee who performs the same or similar duties as other employees in his/her work group and has the designated responsibility to regularly assign, instruct, and check the work of those employees on an ongoing basis."

Ms. Tossini's position does not have the scope and level of responsibility required by this class.

Ms. Tossini's position does not include lead responsibility as required by the definition which states: "Serves as a lead Rehabilitation Counselor *and* meets one of the following criteria." [Emphasis added]. Ms. Tossini does not lead the work of others. A review of Ms. Tossini's PRR and the revised PDF indicates her position does not have designated responsibility to regularly assign, instruct, and check the work of other employees on an ongoing basis. The scope of Ms. Tossini's responsibility involves providing occasional technical information and assistance to other staff members who are working transition cases. While she does serve a specialized caseload, she does not have the regular and ongoing designated responsibility to assign, instruct, or check the work of others who also serve a specialized caseload.

Further, although the Typical Work examples do not form the basis for an allocation, they lend support to the level and scope of work performed by that class. The typical work statements for this class include the following:

... Advises area management on client service issues area-wide;

As a lead counselor provides advice, guidance, counseling, and direction to all regional counselor staff regarding case management, specialized project implementations, and services...;

Approves funding and assigns cases to other counselors;

Provides orientation and basic vocational rehabilitation procedural training for new staff;

Arranges for immediate unit coverage;

Helps develop agendas, conducts unit meetings, and provides input into counselor evaluation;

Provides case management services to other counselors with complex or challenging cases;

Acts as the outreach rehabilitation liaison consultant to employers, educational institutions, and community organizations.

Ms. Tossini's position does not have responsibility for providing other DVR staff with expert consultation, advice, guidance, counseling, and direction regarding service delivery for the Transition function. She does not advise area management on client service issues area-wide; provide advice, guidance, counseling, and direction to all regional counselor staff regarding case management, specialized project implementations, and services. She does not approve funding and assign cases to other counselors. She does not arrange for unit coverage, develop agendas, conduct unit meetings, and provide input into counselor evaluations.

While Ms. Tossini serves a majority of specialized high school transition cases, provides occasional training and mentoring to staff, and performs a variety of associated outreach liaison and consulting activities to employers, educational institutions, and community organizations, (which are often performed in conjunction with her assigned caseload); her position does not lead other staff, nor does she serve in lead counselor role as required by the Definition and Distinguishing Characteristics for the VRC 3 class.

Because Ms. Tossini's position does not have responsibility for leading other staff, and additionally not serving in a lead counselor role at the level anticipated by this class, allocating her position to the Vocational Rehabilitation Counselor 3 class is not appropriate.

For these reasons, Ms. Tossini's position should not be allocated to the Vocational Rehabilitation Counselor 3 class.

### Comparison of Duties to Vocational Rehabilitation Counselor 2

The Definition for this class states:

Provides case management of a client caseload consisting of varying degrees of disabling conditions. Incumbents determine their own work methods within Federal and agency policies and provide needed vocational rehabilitation services.

The Distinguishing Characteristics for this class state:

This is professional journey-level classification. Incumbents make independent case decisions involving the preparation of rehabilitation plans and encumber the authorization of funds for case services. Exercises independent judgment in assisting eligible clients in the selection of vocational goals and the services leading to employment. Independently contracts and authorizes expenditures for State/Federal funds with clients or vendors to provide varying degrees of individually planned diagnostic and/or rehabilitative services.

Although the Typical Work examples do not form the basis for an allocation, they lend support to the level and scope of work performed by that class. The typical work statements provide for participating in workshops and conferences as follows:

...Participates in statewide, regional, and unit staff meetings, classes, workshops, agency training opportunities, professional workshops, and conferences...

The majority of Ms. Tossini's duties, and the overall scope and level of responsibility of her position as a whole, meet the definition and distinguishing characteristics for this class. Her duties include conducting initial client intake and interviews; gathering information in determining eligibility assessments, plans, case management, and performing fiscal monitoring functions. Ms. Tossini participates in and provides training to staff, clients and the public regarding transition services during internal or professional workshops. She also serves as the DVR liaison to the OLS-Venture program which involves serving on the program's Board and providing other professional services including community conferences and other events.

Based on Ms. Tossini's assigned duties and responsibilities, the Vocational Rehabilitation Counselor 2 classification best describes her position.

In Salsberry v. Washington State Parks and Recreation Commission, PRB Case No. R-ALLO-06-013 (2007), the Personnel Resources Board addressed the concept of *best fit*. The Board referenced Allegrì v. Washington State University, PAB Case No. ALLO-96-0026 (1998), in which the Personnel Appeals Board noted that while the appellant's duties and responsibilities did not encompass the full breadth of the duties and responsibilities described by the classification to which his position was allocated, on a best fit basis, the classification best described the level, scope and diversity of the overall duties and responsibilities of his position.

A position's allocation is not a reflection of performance or an individual's ability to perform higher-level work. It is clear Ms. Tossini is a highly-committed and dedicated member of the DVR Mercer Unit staff. However, a position's allocation is based on the majority of work assigned to the position and how that work best aligns with the available job classifications.

Based on the level and scope of the overall duties and responsibilities assigned to Ms. Tossini's position, the Vocational Rehabilitation Counselor 2 classification is the best fit.

**Appeal Rights**

RCW 41.06.170 governs the right to appeal. RCW 41.06.170(4) provides, in relevant part, the following:

An employee incumbent in a position at the time of its allocation or reallocation, or the agency utilizing the position, may appeal the allocation or reallocation to . . . the Washington personnel resources board . . . . Notice of such appeal must be filed in writing within thirty days of the action from which appeal is taken.

The mailing address for the Personnel Resources Board (PRB) is P.O. Box 40911, Olympia, Washington, 98504-0911.

You may file in person at 521 Capitol Way South, Olympia, Washington. Fax number (360) 586-4694.

For questions, please call (360) 664-0388.

If no further action is taken, the Director's determination becomes final.

c:     Adriana Tossini  
       Herman Gilman, WFSE  
       Robert Swanson, DSHS  
       Lisa Skriletz, DOP

Enclosure: List of Exhibits



**Adriana Tossini v. Social and Health Services**  
**ALLO-10-031**

A. Adriana Tossini Exhibits

1. Appeal document from Adriana Tossini titled, "Request for reconsideration" received July 19, 2010 (With attachments listed separately below).
2. Email from Robert Swanson to Adriana Tossini titled, "Your request for information" dated July 7, 2010.
3. Position Description Form for Adriana Tossini's position, submitted by Adriana Tossini dated 1/29/2010. (Note: unofficial)
4. Copy of 2<sup>nd</sup> level supervisor's response from Ron Falberg (Area 2 manager) regarding Position Review Request form for Adriana Tossini, dated 2/5/2010.
5. Adriana Tossini narrative of position duties by Adriana Tossini (4 pages).
6. Copy of Position Review Request form submitted by Adriana Tossini, without supervisors input. (Note: Includes multiple duplicate pages of pages 2, 3, 4 and 5). (Note: attached case load information – WITHDRAWN).
7. Performance and Development Plan (PDP) for Adriana Tossini - Phase: 1 Planning – for period 10/1/2008 to 9/30/2009.
8. Performance and Development Plan (PDP) for Adriana Tossini Phase: 2 Assessment for period 10/1/2007 to 9/30/2008.
9. Performance and Development Plan (PDP) for Adriana Tossini - Phase: 1 Planning – for period 10/1/2006 to 9/30/2007.
10. Performance and Development Plan (PDP) for Adriana Tossini Phase: 2 Assessment for period PDP – Phase 2: Assessment 10/1/2005 to 9/30/2006.
11. Email dated September 12, 2008 from Lynnae Rutledge, subject: Outstanding Performance.
12. Email dated June 18, 2010 from Adriana Tossini to Ellen Andrews, subject: FW: Tossini – Position Review Material.
13. Withdrawn.
14. Cover document from Adriana Tossini to Karen Wilcox enclosing Request for Director's Review Form, received by Department of Personnel on July 21, 2010.
15. Document with inserted email text providing a list of training and mentoring activities performed from Adriana Tossini.
16. Email from Herman Gilman to Kris Brophy dated June 30, 2011 enclosing:
  - a. Power Point presentation titled, "DVR Employment and Training Agency."
  - b. Power Point presentation titled, "DVR and Successful Work Experiences." (Includes a copy of sign-in sheets for the presentation.
  - c. Power Point presentation titled, "Success in Education and Employment."
  - d. Duplicate copy of Exhibit A-15.

17. July 1, 2011 email string from Adriana Tossini which includes an email from John Evans to Adriana Tossini dated June 30, 2011.
18. July 5, 2011 email string from Adriana Tossini which includes a list of mentoring examples provided by Adriana Tossini.
19. July 8, 2011 email from Adriana Tossini with an attached PDF for position #37090, with DSHS February 15, 2006 date stamp.
20. Cover document from Adriana Tossini explaining attached examples:
  - a. Marriott Hotels "Dare to Dream" handouts (6 pages)
  - b. "Project Marriott" document (3 pages)
  - c. DVR information materials (8 pages total)
  - d. DVR Transition Packet with enclosed application materials (Note: includes multiple brochures and other handouts)
21. Email dated July 12, 2010 from Adriana Tossini to Myrna Muto regarding participation at a Transition fair.
22. Email dated August 12, 2011 from Herman Gilman to Kris Brophy requesting removal of privileged information in exchange for stipulation of majority of specialized caseload of transition high school students for Adriana Tossini.

B. Department of Social and Health Services Exhibits

Cover letter dated August 4, 2010 from Robert Swanson to Karen Wilcox enclosing the following:

1. Position Review Request form for Adriana Tossini signed January 29, 2010, supervisor's signatures dated February 8, 2010. (Note: Supervisor's statements listed below).
2. Section 9 "Supervisor's Review" response from Theresa VerWey for Position Review Request form for Adriana Tossini, dated 2/8/2010.
3. 2<sup>nd</sup> level supervisor's response from Ron Falberg (Area 2 manager) regarding Position Review Request form for Adriana Tossini, dated 2/5/2010.
4. Updated Position Description Form for position D262 (Adriana Tossini) dated March 16, 2010.
5. Allocation determination letter dated June 18, 2010 from Robert Swanson to Adriana Tossini.
6. School Transition Listing with current Counselor assignment.
7. Withdrawn.
8. Withdrawn.
9. Performance and Development Plan (PDP – Phase 2: Assessment) for Adriana Tossini for performance period 10/1/2007- 9/30/2008.
10. Email dated March 23, 2011 from Robert Swanson to Kris Brophy granting Ms. Tossini's reallocation request.

11. Email dated May 23, 2011 from Ellen Andrews to Kris Brophy requesting a continuation of the review, with attachment: April 28, 2011 Request for Reconsideration of Position Reallocation, to Wendy Long, DSHS HRD from Andres Aguirre, DSHS DVR (3p.)
12. Email dated August 12, 2011 from Robert Swanson to Kris Brophy requesting removal of exhibits containing privileged information in exchange for stipulation of majority of specialized caseload of transition high school students for Adriana Tossini.

C. Class Specifications

- A. DOP Class Specification for Vocational Rehabilitation Counselor 2 (353L).
- B. DOP Class Specification for Vocational Rehabilitation Counselor 3 (353M)